

BRB No. 96-1457 BLA

ETHEL LESTER, Survivor)	
HOBERT LESTER, Deceased)	
)	
Claimant-Petitioner)	
)	
v.)	DATE ISSUED:
)	
BLANKENSHIP & COMPTON COAL)	
CORPORATION)	
)	
Employer-Respondent)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	ORDER

Appeal of the Decision and Order of Frederick D. Neusner, Administrative Law Judge, United States Department of Labor.

Ethel Lester, Big Rock, Virginia, *pro se*.

Laura Metcoff Klaus (Arter & Hadden), Washington, D.C., for employer.

Before: BROWN, DOLDER, and McGRANERY, Administrative Appeals Judges.

PER CURIAM:

The Board has received employer's motion to dismiss claimant's *pro se* appeal for lack of a proper party-in-interest. In support of its motion, employer asserts that claimant lacks standing to pursue a claim for survivor's benefits or to recover any benefits that may be due on the deceased miner's claim. The Board denies employer's motion to dismiss claimant's appeal. See 20 C.F.R. §§725.360(b), 725.545(c)-(e); Director's Exhibit 105 at 3; see also 20 C.F.R. §802.402(b); *Clarke v. Director, OWCP*, 11 BLR 1-169 (1988).

In view of the novel issue presented, the Director, Office of Workers' Compensation Programs, is requested to file a brief addressing the issues raised within thirty days of receipt of this Order. Specifically, the Director's brief should address the potential interest

of the deceased miner's estate in any underpaid benefits under 20 C.F.R. §725.545. Claimant and Employer may file responses to the Director's brief within thirty days of receipt of the Director's brief. See 20 C.F.R. §802.215.

In light of the Board's disposition of the motion to dismiss, employer's motion to hold the briefing schedule in abeyance is moot. Employer may file a response brief to claimant's appeal within thirty days of receipt of this Order. 20 C.F.R. §802.212.

JAMES F. BROWN
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge